IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 25TH JUNE 2007 / 4TH ASHADHA 1929

Bail Appl..No. 3786 of 2007()

CRIME NO. NOT KNOWN OF MUHAMMA POLICE STATION

PETITIONER/ACCUSED

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1. SHAMEER, AGED 28 YEARS,
   S/O.SHAMSUDEEN,R/A.KADAMPALLLIL,
   MANNANCHERY PO,ALAPPUZHA.

2. NIZAR, AGED 26 YEARS,S/O.ABDUL KHADER
   R/A THOUFEEQUE MANZIL,MANNANCHERY PO,
   ALAPPUZHA.

BY ADV. SRI.C.V.MANUVILSAN
SRI.G.SUDHEER (THURAVOOR)
SRI.P.C.ANIL KUMAR

RESPONDENTS: COMPALINANT

STATE OF KERALA, REP.BY S.I.OF POLICE
MUHAMMA POLICE STATION,ALAPPUZHA.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 25/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A.NO.3786 OF 2007

Dated this the 25th day of June, 2007

ORDER

Application for anticipatory bail. The petitioners are accused 1 and 2. The allegations are raised against 5 accused persons in an F.I.R. There is an allegation in the F.I.R. that an offence under Sec.394 of the IPC has been committed. Between the 1st accused and the de facto complainant, there was an agreement and the 1st accused was allegedly forced to part with an amount of Rs.50,000/- as consideration to the de facto complainant not to carry on an identical business as run by the 1st accused in an adjacent building. The 1st accused was allegedly aggrieved that he was constrained so part with money. Because of this grievance, the 1st accused along with the co-accused is alleged to have trespassed into the shop of the de facto complainant. There is an allegation that the miscreants took away 150 grams of gold ornaments by use of

force. The alleged incident occurred on 11/6/07 at 8.30 p.m. Investigation is in progress. The petitioners apprehend imminent arrest. They submit that they are absolutely innocent and the allegations are being raised with vexatious and mala fide intent. They pray that anticipatory bail may be granted to them.

2. The learned Public Prosecutor, on instructions, submits that the investigation is in progress. A crime has been registered as alleged. But the investigation now reveals that a substantial portion of the allegations raised by the de facto complainant is not true and correct. But the police have come to the conclusion that an offence under Sec.452 of the IPC has been committed by the miscreants. The learned Public Prosecutor opposes the application; but submits that in case this Court were pleased to grant anticipatory, it may on appropriate and strict conditions to be imposed in the interests of a fair, efficient and expeditious investigation.

3. I have considered all the relevant inputs. I am certainly persuaded to agree, considering the nature of submissions made by the learned Public Prosecutor himself, that this is a fit case where the petitioners must be given an

opportunity to surrender before the learned Magistrate and seek regular bail.

4. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioners shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 2/7/07. They shall be released on regular bail on their executing bonds for Rs.25,000/- each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 1 p.m. on 3/7/07 and 4/7/07 and thereafter on all Mondays between 10 a.m. and 12 noon for a period of two months. Thereafter, they shall so make themselves available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law

as if those directions were not issued at all;

(iv) If the petitioners were arrested prior to their surrender on 2/7/07 as directed in clause (i) above, they shall be released on their executing bonds for Rs.25,000/- each without any sureties undertaking to appear before the learned Magistrate on 2/7/07.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge